

**Article 9: Construction Permits**

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**Division 1: General Construction Permit Authority and Procedures**

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§129.0101 Purpose of Construction Review Procedures**

The purpose of these procedures is to establish a review process for construction plans before construction, demolition, or installation and for inspection of construction work before use or occupancy. The intent is to determine compliance with applicable codes and other regulations to safeguard public health, safety, and welfare.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§129.0102 When Construction Permit Procedures Apply**

The following permits require construction review, and the procedures for *construction permits* apply to these permits unless stated otherwise in this article: Building Permits, Electrical Permits, Plumbing or Mechanical Permits, Demolition/Removal Permits, Grading Permits, public right-of-way Permits, and Sign Permits.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§129.0103 Interpretation of Differing Regulations**

Where different sections of the Building, Electrical, Plumbing, and Mechanical Regulations may specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall apply.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§129.0104 Construction Permit Authorities**

(a) The powers and duties of the Building Official are as follows:

- (1) To administer and enforce the Building, Electrical, Plumbing, and Mechanical Regulations.
- (2) To review applications for Building Permits, Electrical Permits, Plumbing Permits, and Mechanical Permits including plans, specifications, and other data.

- (3) To determine if proposed work is in compliance with the Building, Electrical, Plumbing, and Mechanical Regulations and other applicable provisions of the Municipal Code and to make the decision to approve and issue the appropriate *construction permit*.
- (4) To make interpretations of the Building, Electrical, Plumbing, and Mechanical Regulations. The interpretations, rules, and regulations shall be in conformance with the intent and purposes of the Building, Electrical, Plumbing, and Mechanical Regulations.
- (5) To grant modifications for individual cases when there are practical difficulties involved in carrying out the provisions of the Building, Electrical, Plumbing, or Mechanical Regulations. The Building Official shall first find that a special individual reason makes the strict application of the Building, Electrical, Plumbing, or Mechanical Regulations impractical, that the modification is in conformance with the purpose and intent of the Building, Electrical, Plumbing, or Mechanical Regulations, and that the modification does not lessen any fire protection requirements or any degree of structural integrity. The details of any action granting modification shall be recorded and entered in the project file.
- (6) To adopt policies and regulations reasonably necessary to clarify the application of the Building, Electrical, Plumbing, and Mechanical Regulations. The policies and regulations shall be in conformance with the purpose and intent of these regulations.
- (7) To request an interpretation of any provisions of this article or Chapter 14, Articles 5, 6, and 7, or the suitability of any alternate material, design, or construction method from the Board of Building Appeals and Advisors.
- (8) To keep complete records of all permits issued, inspections and reinspections made, and other official work performed in accordance with the provisions of the Land Development Code.
- (9) To require the recordation of documents with the County Recorder as necessary to effectively enforce the requirements of the Land Development Code.
- (10) To request and receive the assistance and cooperation of other City officials in carrying out these duties.

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- (11) To require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the State of California, even if not required by state law.
- (b) The powers and duties of the City Engineer with respect to *construction permits* are as follows:
  - (1) To administer and enforce the applicable provision of the Land Development Code and Municipal Code Chapter 6, Article 2 (Public Rights-of-Way and Improvements).
  - (2) To review applications for Grading Permits, Public Improvement Permits, Encroachment Permits, and Traffic Control Permits including plans, specifications, and other data to determine if an application is in compliance with the Municipal Code, adopted City standards, and engineering standards of practice.
  - (3) To inspect construction activity including *public improvements, grading, encroachments*, and traffic control in the *public rights-of-way* to determine if the construction activity is in compliance with the issued permit, the Municipal Code, and adopted City standards.
  - (4) To make interpretations of the applicable provisions of the Land Development Code. The interpretations shall be in conformance with the purpose and intent of the Land Development Code.
  - (5) To grant modifications for individual cases when there are practical difficulties involved in carrying out the applicable provisions of the Municipal Code. The City Engineer shall first find that a special individual reason makes the strict application of the Land Development Code impractical, that the modification is in conformance with the purpose and intent of the Municipal Code, and that the modification does not lessen any fire protection requirements or any degree of public safety. The details of any action granting modification shall be recorded and entered in the project files.
  - (6) To adopt policies and regulations reasonably necessary to clarify the application of the applicable provisions of the Land Development Code. The policies and regulations shall be in conformity with the purposes and intent of the Land Development Code.

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- (7) To request an interpretation of any provisions of this article or the suitability of alternate materials and types of construction from the Board of Engineering Appeals and Advisors.
- (8) To require the recordation of documents with the County Recorder as necessary to effectively enforce the applicable provisions of the Land Development Code.
- (9) To request and receive the assistance and cooperation of other City officials in carrying out these duties.
- (10) To inspect any property within the City of San Diego to determine compliance with the applicable provisions of the Land Development Code.
- (11) To require plans, computations, and specifications to be prepared and designed by a an engineer or architect licensed by the State of California, even if not so required by state law.

(Amended 9-24-2002 by O-19102 N.S..)

#### **§129.0105 How to Apply for Construction Permit Review**

- (a) An *applicant* for a *construction permit* shall submit an application for one or more permits, as required, in accordance with Section 112.0102.
- (b) If a proposed *development* requires one or more *development permits*, the required *development permits* must be issued before an application is submitted for a *construction permit* except as provided in Section 129.0105(c).
- (c) The Building Official may waive the requirement that all *development permits* be issued before an application for a *construction permit* is accepted, if the Building Official determines that the *development permit* issues will not affect the *construction permit* review.
- (d) The Building Official may waive submittal requirements for plans, specifications, designs, or computations; requirements for construction inspection; or other data if the Building Official determines that, because of the nature of the proposed work, review of plans or other submittal materials is not required to determine compliance with the Building, Electrical, Plumbing, or Mechanical Regulations.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§129.0106 Fees for Construction Permits**

A fee for each *construction permit* application shall be paid at the time of application. The full *construction permit* fees shall be based on the reasonable cost of application, plan review, inspections, and other services as required for permit approval. The fees shall be paid in accordance with the schedule of fees established by resolution of the City Council and filed in the office of the City Clerk.  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§129.0107 Decision Process for Construction Permits**

A decision on an application for a *construction permit* shall be made in accordance with Process One. The type of permit and the decision maker are described in Chapter 12, Article 9, Divisions 1 through 8.  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§129.0108 Issuance of a Construction Permit**

After all required approvals, including any required *development permits*, have been obtained and all required fees have been paid, the Building Official may issue a *construction permit*. Construction shall not begin until the required permits have been issued.  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§129.0109 Use of Alternate Materials, Design, or Construction Methods**

- (a) The provisions of the Building, Electrical, Plumbing, or Mechanical Regulations are not intended to prevent the use of any alternate material, design, or construction method not specifically prescribed by the Building, Electrical, Plumbing, or Mechanical Regulations, provided the Building Official approves of their use.
- (b) The Building Official may approve use of any alternate material, design, or construction method if the Building Official determines the following:
  - (1) That the proposed alternate material, design, or construction method would comply with the Building, Electrical, Plumbing, or Mechanical Regulations;
  - (2) That the proposed alternate material, design, or construction method is at least equivalent to the standards prescribed in the applicable

regulation in terms of suitability, quality, strength, effectiveness, fire resistance, durability, safety, and sanitation; and

- (3) That sufficient evidence has been submitted to substantiate any claims that may be made regarding the use of any proposed alternate material, design, or construction method.
- (c) The details of any action granting approval of an alternate material, design, or construction method shall be entered into the file for that individual permit and a record of the action shall be maintained in accordance with the procedures established by the City Manager.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

#### **§129.0110 Testing of Materials, Designs, or Construction Methods**

- (a) Whenever the Building Official determines that the evidence submitted is insufficient to establish compliance with the applicable provisions of the Building, Electrical, Plumbing, or Mechanical Regulations, the Building Official may require tests to prove compliance. These tests shall be made at no expense to the City.
- (b) Test methods shall be as specified by the applicable provisions of the Building, Electrical, Plumbing, or Mechanical Regulations or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the Building Official shall determine test procedures.
- (c) All tests shall be made by an agency approved by the City. Reports of such tests shall be retained by the Building Official for the period required for the retention of public records.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

#### **§129.0111 General Rules for Construction Permit Inspections**

All work for which a *construction permit* is issued shall be subject to inspection by the Building Official. Required inspections shall be performed in accordance with the inspection procedures established by the City Manager, except as may be exempted by the Land Development Code. Inspections that may be required are listed in the Land Development Manual.

- (a) The permittee shall be informed of the inspections and the sequence of inspections required for the *construction permit*.

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- (b) No work shall be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official.
- (c) No portion of any construction work shall be concealed until inspected and approved.
- (d) After making the requested inspections, the Building Official shall either indicate that the inspected portion of the construction is satisfactory as completed or shall notify the permittee or an agent of the permittee that the inspected portion fails to comply with the Building, Electrical, Plumbing, or Mechanical Regulations or with other applicable regulations of the Municipal Code.
- (e) Any portions of work that do not comply with requirements shall be corrected and such portion shall not be covered or concealed until inspected and authorized by the Building Official.
- (f) A survey of the *lot* may be required to verify that the *structure* is located in accordance with the approved plans.
- (g) A final inspection, with approval of all *structures* and installations, is required before occupancy and use, unless specifically excepted. If *grading* is involved, final inspection shall be after finish *grading*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

#### **§129.0112 Responsibilities of Permittee or Authorized Agent Regarding Inspections**

- (a) **Requesting an Inspection.** It shall be the responsibility of the permittee or the person doing the work authorized by a *construction permit* to notify the Building Official when work is ready for inspection. The request shall be in accordance with procedures established by the City Manager. The Building Official may require that every request for inspection be filed at least one *business day* before the inspection is desired.
- (b) **Providing Access for Inspections.** The person requesting any inspection required by the Building, Electrical, Plumbing, or Mechanical Regulations or the Land Development Code shall be responsible for providing access to, and means for inspection of, the work to be inspected. Neither the Building Official nor the City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

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- (c) Reinspection. A fee may be assessed for reinspection if the inspected work is determined to be incomplete. If reinspection fees have been assessed on a site, no additional inspection of the work will be performed until the required fees have been paid.
- (d) Maintaining Inspection Record Card. Before beginning any permitted work the *permit holder* shall post an inspection record card on the site or the card shall be otherwise conveniently accessible to the Building Official or City Engineer. The card shall be kept accessible by the *permit holder* until final approval has been granted by the Building Official or City Engineer.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

### **§129.0113 When a Certificate of Occupancy Is Required**

- (a) No *structure* shall be used or occupied, and no change in the existing occupancy classification of a *structure* or portion of a *structure* shall be made until the Building Official has issued a certificate of occupancy approving that use or occupancy, except that existing Group R, Division 3 and Group U Occupancies do not require a Certificate of Occupancy.
- (b) Changes in the character or use of a building shall not be made except as specified in the 2001 California Building Code Section 3405.

(Amended 9-24-2002 by O-19102 N.S.)

### **§129.0114 Issuance of a Certificate of Occupancy**

The Building Official shall inspect the *structure* and if the Building Official finds no violations of the Land Development Code or other regulations that are enforced by the City's designated Code Enforcement Officials, the Building Official shall issue a Certificate of Occupancy. All work for which a Building Permit was issued must be complete and have had a final inspection before issuance of a Certificate of Occupancy, except in accordance with Section 129.0115. The Certificate of Occupancy must be signed by the Building Official.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)



**§129.0115 Issuance of a Temporary Certificate of Occupancy**

If the Building Official finds that no substantial hazard will result from occupancy of any *structure* or portion of a *structure* before all work is completed, a temporary certificate of occupancy may be issued for the use of a *structure*, or portion of a *structure* before the completion of the entire *structure*. A Certificate of Occupancy is required upon completion of the remainder of the work.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§129.0116 Posting of Certificate of Occupancy**

The Certificate of Occupancy shall be posted in a conspicuous place on the *premises* and shall not be removed except by the Building Official.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§129.0117 Temporary Construction Permit**

The Building Official may issue a temporary *construction permit* in any zone for the construction of storage yards or temporary construction project offices. If a *development permit* has been issued for the site, the temporary *construction permit* shall be reviewed to determine that the proposed temporary construction is in accordance with the conditions of the *development permit*. The temporary uses may be allowed for a period not to exceed 9 months.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§129.0118 Suspension or Revocation of a Certificate of Occupancy**

The Building Official may suspend or revoke a Certificate of Occupancy if the certificate was issued in error, or on the basis of incorrect information, or if the Building Official determines that the *structure* or a portion of the *structure* is in violation of any ordinance, regulation, or provision of the Municipal Code.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§129.0119 Bond Required for Construction Permit for Grading or Public Improvements**

(a) Persons performing work under Public Right-of-Way or Grading Permits issued in accordance with this article shall furnish a bond in accordance with the following provisions:

- (1) The bond shall be issued by a surety company authorized to do business in the State of California and shall be approved by the City. The bond shall be in favor of the City of San Diego and shall be

conditioned upon the completion, free of liens, of the work authorized by the permit in accordance with the requirements of this article and the conditions prescribed by the permit. The bond shall be conditioned upon the surety company completing the required work or in employing a contractor to complete the work.

- (2) Whenever the City Manager finds that a default has occurred in the performance of any term or condition of work authorized by a permit, the department shall give written notice of the default to the principal and surety of the bond. The notice shall state the work remaining to be done and the estimated cost of completion of the work. After receipt of the notice, the principal or the surety must, within 21 calendar days, notify the City of its intent to complete the construction or, within 35 calendar days, deposit with the City Manager an estimate of the completion cost plus an additional sum equal to 25 percent of the cost, not to exceed the amount of the required bond.
- (3) If the principal or surety deposits the estimated cost plus 25 percent as set forth in the notice, the City Manager shall cause the required work to be completed. The unexpended money shall be returned to the depositor at the completion of the work, together with an itemized accounting of the cost. The principal and surety shall hold the City harmless from any liability in connection with the work so performed by the City or contractor employed by the City. The City shall not be liable in connection with the work other than for the expenditure of the money.
- (4) If the principal or surety fails to deposit the estimated cost plus 25 percent with the City, the City Manager may cause the required work to be completed. The principal and the surety shall be liable for the cost of completing all necessary work including all administrative costs, and overhead incurred by the City to complete the work and collect the costs. The City shall reserve the right to accept bonds from the surety companies as related to the future project.
- (5) If the principal or surety issues a notice of cancellation, the notice of cancellation shall be sent to the City Manager with sufficient information describing the project, permit type, permit number, date issued, and purpose of the permit.

- (6) The amount of the bond covering a specific project shall be approved by the City Manager based on the amount of the estimate of the cost of work and the following schedule:
  - (A) Appurtenances: 100 percent of the estimated cost of private drainage *structures* or other *grading* appurtenances;
  - (B) Revegetation: 50 percent of the estimated cost of revegetation and irrigation systems;
  - (C) *Grading*: 100 percent of the estimated cost up to \$5,000 and \$5,000 plus 50 percent of the estimated cost above \$5,000 and up to \$50,000 and plus 25 percent of the estimated cost above \$50,000;
  - (D) *Public Improvements*: 110 percent of the estimated cost of *public improvements* and *structures*;
  - (E) *Encroachments*: 110 percent of the estimated cost of repair and restoration of the *public right-of-way* to its original condition.
- (b) The permittee may utilize an annual and continuing bond for more than one permit provided the total amount of the bond exceeds the aggregate bond amount of the permits outstanding. Annual and continuing bonds shall contain a clause providing the City Manager with 30 calendar days notice before cancellation.
- (c) In lieu of a bond, the permittee may post a cash deposit, or other security acceptable to the City Manager, with the City Treasurer in an amount equal to the required bond. In the event of a default, the notice of the default as provided above shall be given to the principal and if the default is not corrected within the time specified, the City Manager shall proceed without delay and without further notice of proceeding to use the cash deposit or other security or any portion of the deposit or security to complete the required work. The balance, if any, of the cash deposit shall, upon completion of the work, be returned to the *applicant* after deducting the cost of the work.
- (d) No bond, under the provisions of this article, shall be required from the State of California, its political *subdivisions*, or any governmental agency.
- (e) Permits issued directly to a contractor pursuant to an approved application by the State of California, any of its political *subdivisions*, or any governmental

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agency shall require a bond unless proof is submitted that the work is covered by a bond insuring to the benefit of the state or agency.

- (f) The City Manager may waive the requirement for a bond, as established in the Land Development Manual.

*(Amended 6-12-2001 by O-18948 N.S.)*